

July 6, 2005

Regulatory Analysis and Development, PPD, APHIS  
Station 3C71, 4700 River Road Unit 118  
Riverdale, MD 20737-1238.

**RE: Comments of the California Cattlemen's Association on Docket No. 05-015-1,  
National Animal Identification System; Notice of Availability of a Draft  
Strategic Plan and Draft Program Standards**

To Whom It May Concern:

The California Cattlemen's Association (CCA) appreciates the opportunity to comment on the notice of availability [Docket No. 05-015-1] of a draft strategic plan and draft program standards outlining the process by which the national animal identification system will be developed, and providing a timeline for full implementation. CCA is a non-profit trade association representing California's \$1.58 billion beef cattle industry in legislative and regulatory affairs. Input for these comments was solicited from interested CCA members, and these materials have been discussed in meetings between California Department of Food and Agriculture (CDFA) personnel, state USDA-APHIS personnel, and CCA representatives.

In the wake of the December 23, 2003 discovery of a imported dairy cow infected with bovine spongiform encephalopathy (BSE), Secretary of Agriculture Ann Veneman announced that USDA would immediately work to expedite implementation of a national animal identification system to allow animal health officials to identify animals and premises exposed to animal disease within 48 hours of an initial presumptive-positive diagnosis. Since that time, beef cattle producers in California and throughout the nation have carefully considered the benefits and costs associated with the national animal identification system. Leaders of our organization have discussed implementation of the national animal identification system with hundreds of cattlemen and cattlemen, participated in dozens of meetings regarding this issue, and have been active participants in the rulemaking and public input processes initiated by USDA-APHIS. Moreover, CCA has played a significant role in the development of the Northwest Pilot Project (NWPP), which is currently utilizing USDA funding to field-test animal identification and traceback protocols within seven Western states, and we strongly support the general recommendations submitted as a part of this rulemaking process by the NWPP. California's beef cattle industry remains committed to maintaining the health of animals under our care, and to the development of a national animal identification system which provides additional marketing opportunities for beef cattle producers, is not overly burdensome or intrusive, and allows federal and state animal health agencies to more effectively control animal disease.

Within the aforementioned notice of availability of a draft strategic plan and draft program standards, CCA believes that USDA-APHIS has overestimated and/or overstated beef cattle industry support for a mandatory national animal identification system. Presently, CCA policy calls for industry and market forces, instead of regulatory pressures, to drive the development of the national animal identification system. Our members firmly believe that any national animal identification system must, first and foremost, be practical and workable for individual beef cattle producers and others within the production chain. Furthermore, the ideal national animal identification system will attract widespread producer participation not by the force of law, but because participation will offer economic benefits to beef cattle producers, while at the same time providing information to USDA-APHIS and state animal health agencies for use in the event of an animal disease outbreak. It is highly likely that this position will remain unchanged at least until the system framework and identification technologies required by such a system have been field-tested and proven effective, and the federal government has dealt with key concerns and questions held by cattlemen and cattlemen in California. These concerns and questions, as well as potential remedies for these concerns, are presented below:

- We are concerned that USDA-APHIS is not considering a suitable range of alternatives with regard to key system components, most notably the National Animal Records Repository. In keeping with our policy that calls for industry and market forces to drive the implementation of the national animal identification system, we believe USDA-APHIS should consider utilizing private data systems which could meet established standards and protocol to provide surveillance and traceback information in the event of an animal disease outbreak. We believe that the utilization of private-sector data repositories will also mitigate (though not eliminate) potential confidentiality issues, better enable producers to willfully share production information with other industry entities, and eliminate the potential for a centralized federal database to grow into an expansive bureaucracy that saddles producers with excessive or unnecessary costs. Thousands of producers across the nation have already invested resources in private animal identification systems and infrastructure, many of which are currently utilizing premise registration and individual identification information for marketing purposes. A number of private-sector data repositories have operated for more than five years, and many of these have agreed to share data with federal and state governments to better protect our cattle herd from foreign animal diseases. Allowing the private sector to continue these efforts, and simply certifying that they are complying with national animal identification system standards and protocol, would certainly be more cost-effective for the federal government, and more likely to generate industry participation and buy-in for the national animal identification system than a centralized, government-controlled data repository.

We are also concerned that USDA-APHIS is not considering a suitable range of alternatives with regard to interfacing with state animal health agencies. Many states with brand requirements have had animal identification programs in place for over a century. These systems already allow animal tracking with great efficiency, often meeting or exceeding the 48-hour traceback requirement envisioned in the draft strategic plan. Therefore, any national animal identification system must overlay, compliment, and be compatible with existing brand laws enforced by many state animal health agencies, including the California Department of Food & Agriculture. Furthermore, these state animal identification agencies

need to be more engaged in the implementation process, as they in some instances may be able to perform vital national animal identification system services, including the overseeing of private treaty transactions, and the transmittal of information to the data repository. We believe these animal identification agencies can serve as a very real asset to implementation of the national animal identification system, but for the most part have been overlooked by USDA-APHIS.

- We are concerned that many of the system elements discussed within the draft program standards lack necessary specificity, especially given that major components of the national animal identification system are slated to become mandatory in less than three years. For example, within the draft program standards, it is stated that when cattle change ownership, are moved interstate, or are commingled, the receiving premises or person responsible for the animals at the receiving premises must report this movement to the National Animal Records Repository within 24 hours. Does this apply in all situations, including those where only a single animal is moved? What enforcement action will be taken if these movements are not reported within this timeframe? What expectations does USDA-APHIS have for producer compliance? Perhaps most importantly, how will livestock producers actually interface with any public or private-sector data repository?

Until these, and other important questions pertaining to specific requirements which will be faced by individual livestock producers are answered, the beef cattle industry has no meaningful way to assess whether any national animal identification system is truly workable. Consequently, it seems premature to establish a firm timetable for implementation of a mandatory national animal identification system when these sorts of key questions remain unanswered, and the development of even the most basic components of the system (including premise identification number allocators) has taken far longer than originally expected in many states, including California.

Therefore, we believe USDA should work to incorporate a necessary degree of flexibility into the timeline for implementation of the national animal identification system. At the very least, USDA-APHIS should publicly acknowledge that some revision of this implementation schedule may be necessary in the future to account for unforeseen circumstances. Simultaneously, USDA-APHIS should carefully consider the findings of the various national animal identification pilot projects which are underway throughout the U.S., particularly with regard to the effectiveness of suitable identification technologies and the costs incurred by producers. Again, we have difficulty understanding why a firm timetable for implementation of the national animal identification system would be established before this information is available to USDA-APHIS and the general public.

- We are concerned that despite efforts by USDA-APHIS to safeguard the confidentiality of information of data collected by the national animal identification system, this information will ultimately become accessible to those who will use it for inappropriate purposes. There must be ironclad protections in place to safeguard the confidentiality of information of data collected by any national animal identification system. This information should be accessible

only to USDA-APHIS, state animal health agencies, and the Department of Homeland Security, and then only in the event of an animal disease outbreak.

We appreciate that USDA-APHIS has pledged not to mandate participation in any national animal identification system until these confidentiality issues are fully addressed. This is appropriate, given that industry support for any national animal identification system is contingent upon maintaining the confidentiality of production information. As USDA-APHIS looks to Congress to guarantee confidentiality of this information, has any confidentiality language, to date, been vetted through Congress and passed legal review outside of the Department? Given that recent court cases have challenged or overridden the federal government's ability to protect even private data held in the public sector, what assurances will producers have that production information data will not be made public?

At the same time, this issue of information disclosure is made much more complex by strong support which exists for the ability of the national animal identification system to collect, maintain, and pass along information unrelated to movement and premise of origin (i.e. birth date, vaccination information). As stated previously, many industry entities are currently working to build systems which collect, maintain and store individual animal identification information for marketing purposes. We firmly believe that any national animal identification system should allow producers to increase production efficiency and revenues by passing animal or producer data on to the appropriate parties in the supply chain while maintaining producer privacy. Only producers and those designated by producers should have access to this information.

- Our members are extremely concerned that should participation in a national animal identification system be mandated, the costs of participation incurred by producers, livestock auction markets, and others in the production chain will far exceed the benefits received in return. While the cost estimates for implementation of a mandatory national animal identification system vary greatly, there is little doubt that these costs will be significant, and total hundreds of millions of dollars. As stated previously, we believe a voluntary system will prove most cost-effective for the livestock industry and the federal government, as the private sector will be better motivated to control costs and provide market-based incentives for participation.

While we appreciate that the draft strategic plan and draft program standards recognize some of these concerns, we remain uneasy that few positive solutions are offered within these documents which may serve to alleviate them. Until these concerns are fully addressed, USDA should continue to place focus on implementing a voluntary national animal identification system. At present, we simply do not feel that a government-controlled system can offer beef cattle producers either the confidentiality or the value-added component that we feel are absolutely essential for a national animal identification system which engenders broad producer support and provides USDA-APHIS and state animal health agencies with traceback and surveillance information.

In part, this resistance to the draft program standards and a mandatory national animal identification system stems from the fact that USDA-APHIS appears to be developing this system with relatively little information regarding the real-world effectiveness of the identification technologies considered, and the potential costs and benefits of the system to livestock producers. USDA-APHIS and others interested in broad-scale participation in any national animal identification system would be well-served by encouraging additional input from stakeholders on this critically important issue, and by incorporating a necessary degree of flexibility into the plan. Cattlemen and cattlemen in California and throughout the nation very much want to work constructively, and not in conflict, with USDA in developing the national animal identification system.

CCA wishes to submit answers to the following questions included within the national animal identification system strategic plan by USDA:

1. The Draft Strategic Plan calls for making the entire system mandatory by January 2009. Is a mandatory identification program necessary to achieve a successful animal disease surveillance, monitoring and response system to support Federal animal health programs?

We believe that the development over time of the national animal identification system should provide state and federal animal health authorities with the most successful animal disease surveillance system possible. We do believe the system envisioned by some at USDA-APHIS that would record movement where cattle are commingled with animals from another premises is unworkable by January 2009. Furthermore, as indicated previously, we believe that establishing arbitrary dates for such implementation is meaningless until workable solutions can be developed for the dilemmas of tagging, movement scanning, and recording.

2. In the current Draft Strategic Plan, the NAIS would require that producers be responsible for having their animals identified before the animals move to a premise where they are to be commingled with other animals, such as the sale barn. At what point and how should compliance be ensured? For example, should market managers, fair managers, etc. be responsible for ensuring compliance with this requirement before animals are unloaded at their facility or event?

Because of the need to unload cattle at markets and fairs in an expeditious manner, compliance should not be ensured before animals are unloaded. Currently at many auction markets the unloading process can cause lines of livestock haulers to extend for a mile or more from the facility. Ensuring compliance before unloading will only exacerbate this problem. We recommend that the burden of compliance does not need to be placed on the market or fair manager in situations where brand inspection authorities have jurisdiction and are available. These brand inspection authorities could act as the official entity to verify compliance of movement recording in such situations.

3. In regard to cattle, individual identification would be achieved with an AIN tag that would be attached to the animal's left ear. It is acknowledged that some producers do not have the facilities to tag their animals; thus, the Draft Program standards document contains an option

for tagging sites which are authorized premises where owners or persons responsible for cattle could have their cattle sent to have AIN tags applied. Do you think this is a viable option or can markets or other locations successfully provide this service to producers who are unable to tag their cattle at their farms?

While the challenge of collecting and recording animal movements may be the most significant hurdle faced by those working to implement the national animal identification system, this challenge will easily be rivaled by the tagging of beef cattle. Many beef cattle producers do not have the ability to individually identify their cattle due to a lack of facilities. For decades, the beef cattle industry marketing infrastructure has efficiently marketed millions of cattle born and raised on small farms and ranches in a manner that has allowed the producer to bring a raw commodity (typically an unweaned calf that has not been vaccinated or castrated) to market. The other end of the infrastructure - stocker operations and feedyards - take these raw commodities and process them (vaccinations, castration, etc.) when they take delivery.

Consequently, millions of calves born and raised in the U.S. are not restrained for the first time until they have left their ranch of origin, marketed through an auction market and reached the stocker or feeder phase of their lives. Consequently, if national animal identification system is implemented as written, an economic burden on the beef cattle industry will be imposed due to the additional labor, equipment, and infrastructure needed, as well as stress and injury to cattle brought on by the requirement to identify cattle prior to commingling.

The question, obviously, is how to tag these cattle in a manner that reduces this burden as much as possible. Unfortunately, CCA does not have an answer which will serve as a silver bullet. We do, however, wish to make a few comments about the proposed tagging sites. First, cattle will be tagged where it makes the most economical sense. In many situations this likely will be at a livestock auction market. As described above, producers with small herds are accustomed to the marketing infrastructure addressing such needs. However, USDA should not assume that all market auctions will be able to accommodate the identification needs of all producers. Livestock auction markets are set up to be able to accept cattle and expeditiously and efficiently market them in a short period of time – as short as two hours. If markets have the resources to individually identify cattle, they must be able to retrofit their facilities to accommodate the above-described efficiencies. While some markets can simply build additional alleys and pens to accommodate this need, many others don't have the flexibility or capital to make such changes. This situation of creating a system of haves and have-nots could lead to problems for producers if economic pressures force certain livestock markets out of business, and these producers are forced to travel greater distances to market their cattle. The livestock auction market sector of our industry has experienced consolidation in the last 20 years and implementation of the national animal identification system could have the unintended impact of hastening this consolidation.

Because individual identification will occur where it is most economical, it is unlikely that offsite tagging locations will be viable. First, an offsite tagging location will mean an extra stop for producers on their way to auction markets which means more cost and stress on cattle. Second, the entity operating the site will have to make a considerable capital investment and will

mostly likely have to be a registered tag distributor in order to sell tags (if not, then producers will have to make prior arrangements to purchase tags which will entail more cost). Such investment may likely require the cost of tagging at such sites uncompetitive if local auction markets have an advantage.

4. The current Draft Strategic Plan does not specify how compliance with identification and movement reporting requirements to be achieved when the sale is direct between a buyer and seller (or through their agents). In what manner should compliance with these requirements be achieved? Who should be responsible for meeting these requirements? How can these types of transactions be inputted into the NAIS to obtain the necessary information in the least costly, most efficient manner?

This question raises another major dilemma for those working to implement the national animal identification system. We believe that while brand inspection officials may be able to facilitate compliance with these requirements, in many cases one or both cattle producers engaging in a private treaty transaction must be trusted to comply. Thus, it seems entirely appropriate that to achieve widespread compliance, USDA-APHIS must develop systems which are industry-friendly and which will attract widespread producer participation not by the force of law, but because participation will offer economic benefits to beef cattle producers, while at the same time providing information to animal health agencies for use in the event of an animal disease outbreak. To this end, we believe that allowing the private sector to manage and control production information would certainly be more cost-effective for the federal government, and more likely to generate industry participation and buy-in for the national animal identification system than a centralized, government-controlled data repository.

5. Are the timelines for implementing the NAIS, as discussed in the Draft Strategic Plan, realistic, too aggressive (i.e. allow too little time) or not aggressive enough?

While we understand the concern that the national animal identification system is not being implemented fast enough, we also believe that implementing a poorly developed plan will result in disaster. Therefore, as stated previously, it is premature to establish a firm timetable for implementation of a mandatory national animal identification system when key questions remain unanswered, and the development of even the most basic components of the system has taken far longer than originally expected in many states, including California.

We believe USDA should work to incorporate a necessary degree of flexibility into the implementation timeline. At the very least, USDA-APHIS should publicly acknowledge that some revision of this implementation schedule may be necessary in the future to account for unforeseen circumstances. Simultaneously, USDA-APHIS should carefully consider the findings of the various pilot projects which are underway throughout the U.S., particularly with regard to the effectiveness of suitable identification technologies and the costs incurred by producers. Again, we have difficulty understanding why a firm timetable for implementation of the national animal identification system would be established before this information is available to USDA-APHIS and the general public.

6. Should requirements for all species be implemented within the same timelines or should some flexibility be allowed?

CCA does not have a position on when the national animal identification system should be implemented for pork, poultry, sheep or other food animals. However, we do believe USDA-APHIS should proceed cautiously before seriously considering the same type of system for horses relative to movement recording. Many horses used on ranches, as well as performance horses, are moved to and from various premises at very high rates of frequency and compliance with such a system will be basically impossible. Whereas the average beef animal may move on and off approximately six premises in their lifetimes, this number can easily run into the hundreds for many horses, thus making movement recording a monumental task.

7. What are the most cost-effective and efficient ways for submitting information to the database (entered via the internet, file transfer from a herd management computer system, mail, phone, third party submission of data)? Does the type of entity (e.g. producer, market, slaughterhouse), the size of the entity, or other factors make some methods for information submission more or less practical, costly or efficient?

The type, size and other factors regarding the entity in question makes some methods more practical and efficient than others. While technology is increasingly embraced by small scale cattle producers there continue to be barriers to their ability to utilize tools including the Internet and file transfer to submit movement records. Issues including the availability of power at remote locations, slow or poor Internet connectivity, and other matters will make it difficult for small scale producers in many environments to utilize advanced methods of data submission. Consequently, a broad range of options for submitting information to the data repository will be most appropriate.

8. We are aware that many producers are concerned about the confidentiality of the information collected in the NAIS. Given the information identified in the draft documents, what specific information do you believe should be protected from disclosure and why?

CCA believes that all producer information should receive protection from disclosure. We recognize that legislation may be the first and best tool to protect the confidentiality of production information collected by the national animal identification system. However, we also recognize that the interpretation of laws by the judicial system often thwarts the intent of Congress. Therefore, we believe that passage of legislation should not be the only tool utilized to safeguard the confidentiality of production information. We believe that the confidentiality of production information collected by the national animal identification system can be better protected by private-sector data repositories.

9. The NAIS as planned would require States, producers, and other participating entities to provide information and develop and maintain records. How could we best minimize the burden associated with these requirements? For example, should both the seller and the buyer of a specific group of animals report the movement of the animals, or is reporting by one party adequate?



CCA supports the current guidelines outlined in the national animal identification system which require movements to be recorded upon delivery of cattle to the receiving premises. We also acknowledge that a dual-entry approach for both shipping and receiving entities will ensure a greater accuracy of data entered into a system. In the early stages of national animal identification system implementation, a primary objective of movement reporting should be to make the process as user friendly as possible. Moreover, utilizing the various data entry methods will be a learning process for producers, especially those learning to utilize technologies available for this purpose. We would expect, as industry participants become increasingly familiar and comfortable with the various movement recording methods, USDA could reevaluate whether or not a dual-entry requirement is necessary in the future. It is highly likely that a dual-entry requirement in the early stages of implementation will serve to limit participation.

10. APHIS is requesting comment from stakeholders regarding the utility of a privately managed database for holding animal location and movement information. Among the issues you may wish to comment on are the following: 1) How should a private database system be funded? 2) Should the NAIS allow for multiple privately managed databases? 3) Should a public (government) system be made available as well as a privately managed system so that producers would have choice? 4) Should a privately managed system include all species? 5) Would either system work equally well at the state level?

- 1) CCA acknowledges that if private-sector data repositories are recognized and utilized by USDA then the private sector should fund the operation of the system. However, CCA will continue to urge Congress and the Administration to fund various components of the national animal identification system. A very significant infrastructure of hardware and software components will need to be installed around the nation to equip state animal health agencies and collection points with the tools to register premises, scan RFID devices and report movements.
- 2) CCA is advocating a voluntary, private-sector national animal identification system largely because we believe such an approach would allow competition in the marketplace will force the development of a workable system which engenders broad participation at the lowest cost. In keeping with this philosophy, it would seem believes that if private-sector data repositories are permitted, it would seem that multiple private-sector repositories would offer the most competition in the marketplace and should not be prohibited.
- 3) CCA believes that government should not be precluded from offering a system which competes with private-sector data repositories.
- 4) CCA believes that private-sector data repositories can and should accommodate all species covered by the national animal identification system.
- 5) With the small amount of funds available to most state animal health agencies, we do not believe states will be able to develop and maintain a public-sector data

repository as efficiently and effectively as the private sector. Many producers have an innate skepticism about providing information to state and federal animal health authorities; therefore we believe that private-sector data repositories will work better for both producers and the nation's animal health authorities alike.

Thank you for the opportunity to provide comments on the notice of availability of a draft strategic plan of the national animal identification system. We urge USDA to take these comments seriously and to work more closely with the beef industry to utilize our strengths and resources to implement a system providing cattlemen and cattlemen with an effective tool to better manage herd health, and animal health officials with the best disease surveillance eradication systems possible. CCA sincerely appreciates USDA-APHIS efforts to protect both the health of our livestock and the safety of our food supply. Should you have any questions or concerns about these comments, please do not hesitate to contact me.

Sincerely,

Benjamin L. Higgins  
Executive Vice President

cc: The Honorable Dianne Feinstein  
The Honorable Joe Baca  
The Honorable Dennis Cardoza  
The Honorable Jim Costa  
The Honorable Devin Nunes  
The Honorable Richard Pombo  
The Honorable Mike Thompson  
A.G. Kawamura, Secretary, California Department of Food and Agriculture  
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